

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

_____	)	
MATTHEW A. PEQUIGNOT,	)	
	)	
Plaintiff	)	
	)	
v.	)	1:07cv897 (LMB/TCB)
	)	
SOLO CUP COMPANY,	)	
	)	
Defendant.	)	
_____	)	

**PLAINTIFF’S MOTION FOR LEAVE TO FILE RESPONSE  
TO DEFENDANT SOLO CUP COMPANY’S OPPOSITION  
TO THE BRIEF OF THE UNITED STATES AS INTERVENOR  
DEFENDING THE CONSTITUTIONALITY OF 35.U.S.C. § 292**

Plaintiff Matthew A. Pequignot respectfully requests leave to file the accompanying short response to Defendant Solo Cup Company’s Opposition to the Brief of the United States as Intervenor [D.E. 90]. Because Mr. Pequignot and the United States agree that 35 U.S.C. § 292 is constitutional, Mr. Pequignot originally sought the consent of defendant Solo Cup Company (“Solo Cup”) to modify the briefing schedule so that Mr. Pequignot could respond after Solo Cup’s opposition to the United States’ brief was due, rather than at the same time. This would have allowed Mr. Pequignot the opportunity to address Solo Cup’s arguments challenging the constitutionality of the statute. Solo Cup refused to consent to a modification of the briefing schedule. *See* Pl’s Response to Br. of the United States as Intervenor [D.E. 92] at 1 n.1. Mr. Pequignot therefore filed a response on January 9, 2009, setting forth his reasons for agreeing with the United States that 35 U.S.C. § 292 is constitutional.

In the attached brief, Mr. Pequignot responds only to new arguments raised by Solo Cup in its latest filing. Because of its limited nature and because it is intended to assist the Court in its deliberations on the constitutional issues, Mr. Pequignot respectfully requests that he be granted leave to file the attached brief.

Counsel for Mr. Pequignot inquired whether Solo Cup would consent to his filing a short brief addressing new arguments raised by Solo Cup. Solo Cup's counsel responded that it would not consent.

A proposed order is attached.

Dated: January 16, 2008

Respectfully submitted,

/s/ Ellen D. Marcus

Ellen D. Marcus

Virginia Bar. No. 44314

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**CERTIFICATE OF SERVICE**

I certify that on January 16, 2009, I electronically filed Plaintiff's Motion for Leave to File a Reply to Solo Cup's Opposition to the Brief of the United States As Intervenor Defending the Constitutionality of 35 U.S.C. § 292 using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF.

/s/ Ellen D. Marcus

Ellen D. Marcus